proposed rule change (SR–CHX–00–28), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43791; File No. SR–GSCC–00–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Enhancement of Risk Management Processes

January 2, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 17, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will enhance one of the components of GSCC's clearing fund formula by reducing the liquidation amount from 25 percent to 10 percent.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the propose rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As part of its ongoing review of its risk management process, GSCC is seeking authority to enhance one of the components of its clearing fund formula. Specifically, GSCC is proposing to lower the liquidation amount from 25 percent to 10 percent. GSCC believes that this would more appropriately balance the level of margin it collects against the liquidity needs of its members.

Background

A netting member's clearing fund requirement is based on a formula designed to take into account the three basic risks posed to GSCC by netting members. These risks include: (1) That a member might not pay a funds only settlement amount due to GSCC; (2) that a member may fail to settle a long-term repo; and (3) that a member might not deliver or take delivery of securities that comprise a net settlement position.

As a result, there are three components to each member's clearing fund deposit requirement, as described below, with the sum of the three being a member's overall requirement:

Funds Adjustment (FAD) Component

This component is based on each member's average funds only settlement amount. The relevant variable in this calculation is the size of the settlement amount. It does not matter whether the funds are to be collected from the member or paid to the member.

Repo Volatility Component

This component reflects the interest rate exposure incurred by GSCC in guaranteeing the contractual rate of interest on a repo transaction. The repo volatility factor essentially represents an estimate of the amount that repo.

Receive/Deliver Settlement Component

This component is based on the size and nature of net settlement positions. The margin collected on net settlement positions is determined by applying margin factors that are designed to estimate security price movements. The factors are expressed as percentages and are determined by in historical daily price volatility. By multiplying security settlement values by their corresponding margin factors, GSCC estimate the amount of loss to which it is potentially exposed from price changes.

Margin amounts on receive (long) and deliver (short) positions are allowed to offset each other. The extent to which an offset is allowed is determined by product and the degree of similarly in time remaining to maturity.

GSCC computes four receive/deliver settlement amounts each day. The four results are compared daily, and the largest amount is applied to the clearing fund requirement. The four receive/deliver computations are as follows:

(1) *Post-Offset Margin Amount (POMA):* This computation offsets gains against losses in liquidating a member's positions that are anticipated based on historical experience. The POMA essentially is the total margin on the current day's positions and forward net settlement positions taking into account allowable offset percentages.

(2) *Average POMA:* This computation is based on the member's twenty highest POMA amounts occurring in the most recent 75 business days.

(3) *Adjusted POMA:* This computation is the same as the POMA with the exception that it excludes all trades that are scheduled to settle on the current day. This is done based on the assumption that those trades will in fact settle on the current day and that calculating POMA in this manner will more accurately reflect GSCC's settlement exposure during the current day.

(4) *Liquidation Amount:* This computation is a floor amount designed to ensure that if the margin offsets ordinarily allowed in calculating the receive/deliver settlement component do not reflect actual market conditions during a liquidation period, GSCC nonetheless will have a sufficient level of collateral protection. In other words, this minimum requirement, which is 25 percent of the total margin on all net long and short positions without offsets, protects against the risk that during a liquidation period the yield curve will be aberrational. In such a situation, collection of a minimum amount of margin based on gross calculation should ensure that GSCC will have sufficient collateral to cover liquidation losses.

Proposed Change

GSCC proposes to lower the percentage calculated on the net long and net short positions in the liquidation amount calculation from 25 percent to 10 percent. GSCC believes that 25 percent is overly conservative for the reasons set forth below.

First, the current received/deliver settlement component calculation is overly conservative. GSCC's experience has demonstrated that its POMA and average POMA calculations provide adequate protection against potential settlement risks. The POMA, by itself, is

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

a conservative calculation that is a function of: (1) Margin factors that are designed to cover one day market movements as least 95 percent of the time but that typically exceed this confidence level and (2) a cautious disallowance scheme providing only limited credits (benefits) for hedging across offset classes (for example, GSCC does not allow offsets of zeros against non-zeros).

Furthermore, by calculating an average POMA (based on a member's twenty highest POMA amounts occurring in the most recent 75 business days), GSCC ensures that it calculates a historically sufficient receive/deliver settlement component for a member even when current activity results in a relatively low requirement.

Finally, periodic studies conducted by GSCC assessing the risks presented to it from the potential default by a member on its obligations to GSCC have concluded that GSCC's methodogies for identifying and computing its risks provide it with a high level of protection on a individual and aggregate basis.

Second, the liquidation amount ignores and negates much of the protection afforded by a hedging strategy. The more a member engages in a hedging strategy with respect to its trading, the more it protects its clearing corporation from the risk of its failure. However, GSCC believes that the current 25 percent minimum margin call effectively disregards the protection afforded to GSCC by a member that engages in trading activity on a fully hedged basis. In addition, it penalizes the member by forcing it to post excessive collateral with GSCC.

In sum, the liquidation amount calculation is necessary because it recognizes the fact that an aberrational yield curve may exist at the time of a liquidation. However, GSCC believes that the use of 25 percent is overly conservative and ties up excessive amounts of collateral of netting members. Thus, GSCC believes that the percentage in liquidation amount calculation should be lowered to 10 percent.

GSCC believes that the proposed rule change will revise GSCC's risk management processes in a prudent manner that is consistent with minimizing collateral and operational burdens on and maximizing the liquidity of GSCC netting members. Thus, GSCC believes that the proposed rule change is consistent with Section 17A of the Act because the proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions and will in general protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not yet been solicited. Members will be notified of the rule filing and comments will be solicited by an Important Notice. GSCC will notify the Commission of an written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which GSCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–00–02 and should be submitted by January 30, 2001.

For the Commission by the Divisioin of Market Regulation pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–43785; File No. SR–NYSE–00–39)

Self-Regulatory Organizations; New York Stock Exchange, Incorporated; Order Approving Proposed Rule Change To Amend Arbitration Rules Regarding Pilot Programs for Mediation and Administrative Conferences

December 29, 2000.

I. Introduction

On September 29, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending and extending the pilot programs for mediation and administrative conferences. Notice of the proposal appeared in the **Federal Register** on November 17, 2000.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description

The Exchange proposes to amend and extend the pilot programs under NYSE Rules 638 and 639 for mediation and administrative conferences. The Exchange is amending and extending the pilot programs to continue to offer mediation as a way for parties to settle cases earlier with lower costs.[4] The Exchange believes that the administrative conference allows the

[3] 17 CFR 200.30–3(a)(12).

[1] 17 CFR 240.19b–4.

[2] 15 U.S.C. 78s(b)(1).

[3] Securities Exchange Act Release No. 43538 (November 9, 2000), 65 FR 69596.

[4] The Commission approved the Exchange's mediation program and administrative conference rule on a two-year pilot basis through November 20, 2000. *See* Securities Exchange Act Release No. 40695 (November 19, 1998), 63 FR 65834 (November 30, 1998). On October 31, 2000, the Exchange's current pilot programs for mediation and administrative conferences were extended for an additional six months. *See* Securities Exchange Act Release No. 43496, (October 31, 2000).